

Section 3.06 Accessory Dwelling Units

(a) Purpose and Intent

The purpose and intent of permitting Accessory Dwelling Units is to allow a separate living area within and as part of a single family home to:

- (i) Enable family members who choose to live in close proximity, but separate from other family members, to remain within the family environment;
- (ii) Provide homeowners with the ability to care for a family member while keeping a separate living area;
- (iii) Provide housing units for individuals hired to provide medical assistance, custodial care, or child care for the occupant(s) of the primary dwelling;
- (iv) Provide more opportunities to allow Town of Mendon residents to remain in the community;
- (v) Ensure that dimensional requirements in our Zoning By-Law are not circumvented by changing a single family house into a two family house by adding an apartment;
- (vi) Protect stability, property values, and the residential character of a neighborhood by ensuring that Accessory Dwelling Units are only allowed in owner occupied, single family homes and the appearance of the building remains that of a single family residence; and
- (vii) Make it possible for the Town to monitor all such additions for code compliance and safety.

(b) Definitions

- (i) Accessory Dwelling Unit. A self-contained housekeeping unit of limited size incorporated within a single family dwelling unit that is clearly a subordinate part of the single family dwelling.
- (ii) Family Member. A parent, a son, a daughter, an uncle, an aunt, a niece, a nephew, a grandparent, and/or a sibling.
- (iii) Primary Residence. A dwelling where the owner-occupant has a true, fixed, and permanent home.
- (iv) Single Family Dwelling. A detached building intended and designed to be occupied by a single family.

(c) Standards and Requirements for Accessory Dwelling Units

- (i) Accessory Dwelling Units that comply with the criteria set forth herein shall be allowed by right.
- (ii) Accessory Dwelling Units that do not comply with said criteria, including those that were grandfathered until the property was sold, may be permitted by the Planning Board upon the issuance of a special permit.
- (iii) Only one Accessory Dwelling Unit may be created on a lot.
- (iv) The Accessory Dwelling Unit shall not exceed eight hundred (800) square feet.
- (v) The maximum number of bedrooms shall be one and the maximum number of occupants shall be two. Occupants must be Family Members.

- (vi) The unit will be a separate housekeeping unit containing both kitchen and bath.
- (vii) There must be a connecting door between units within a single family dwelling.
- (viii) The appearance of the building shall remain that of a one family residence.
- (ix) Any new separate outside entrance serving an Accessory Dwelling Unit shall be located on the side or in the rear of the building.
- (x) There shall be no additional driveway to serve an Accessory Dwelling Unit in a Single Family Dwelling.
- (xi) There shall be two additional parking spaces located to the side or rear of the the property.
- (xii) There shall be one electric service, one source of potable water, and the Accessory Dwelling Unit shall not have a separate address. The addition of an Accessory Dwelling Unit to a Single Family Dwelling does not change it to a a two family dwelling
- (xiii) In addition to being incorporated into a single family house, an Accessory Dwelling Unit may be allowed in an existing detached structure such as a barn or garage. This structure shall not be enlarged or extended in connection with the construction or modification of an Accessory Dwelling Unit, except for minimal additions necessary to comply with building, safety or health codes or to create or enclose an entry way or stairway.
- (xiv) The footprint of the home or detached structure shall not be enlarged.
- (xv) The construction of any Accessory Dwelling Unit must be in conformity with the State Building Code, Title V of the State Sanitary Code, and any other local regulations. A septic system sized for the number of bedrooms must be approved by the Board of Health.
- (xvi) The owner(s) of the residence in which the Accessory Dwelling Unit is created must continue to occupy the Primary Residence, except for bona fide temporary absences or a special permit from the Planning Board.
- (xvii) Prior to issuance of a permit, a plan showing the proposed changes to the building or site must be submitted to the Building Inspector.
- (xviii) In the case of disabled and handicapped persons with limited mobility, the Building Inspector may allow reasonable deviation from the stated standards, where necessary, to install features that facilitate access and mobility.

(d) Permitting Requirements for Accessory Dwelling Units

In addition to Section (c) above, Accessory Dwelling Units shall comply with the following:

- (i) Prior to the issuance of a permit, the owner(s) must send a notarized letter to the Building Inspector stating :
 - 1) The name and relationship of the family member who will occupy the Accessory Dwelling Unit; or
 - 2) That the occupant is an individual hired to provide medical assistance, custodial care, or child care for the occupant(s) of the primary residence; and

- 3) That the owner-occupant shall annually re-certify the status of occupants and family status with the Building Inspector.
 - (ii) When a dwelling or structure that has received a permit for an Accessory Dwelling Unit is sold, the new owner(s), if they wish to continue to exercise the permit, must within 45 days of the sale, apply to the Building Inspector for a new permit.
- (e) Grandfathering
- (i) Accessory Dwelling Units in existence at the time of the passage of this By-Law shall be exempt from the provisions of this By-Law until the property is sold. However, upon the sale of said property, the provisions of this By-Law shall apply.
 - (ii) A homeowner who has an Accessory Dwelling Unit in existence at the time of passage of this By-Law shall not expand the size of the Accessory Dwelling Unit or add to the number of occupants.
 - (iii) A homeowner who has an Accessory Dwelling Unit in existence at the time of the passage of this By-Law and voluntarily accepts the standards and requirements listed in 2.06 (c) shall not be subject to the fine for health and safety issues as stated in (f) (iv) providing said homeowner brings his premises into compliance with this By-Law.
- (f) Penalty and Enforcement
- (i) It shall be the duty of the Building Inspector to administer and enforce the building code compliance and safety provisions of this By-Law for Accessory Dwelling Units. It shall also be the duty of the Building Inspector to administer and enforce the requirements in (d) for Accessory Dwelling Units.
 - (ii) No building shall be changed in use or configuration until the Building Inspector has issued a permit. No building shall be occupied until a Certificate of Occupancy has been issued by the Building Inspector.
 - (iii) The Building Inspector shall issue a cease and desist order on any work in progress or on the use of any premises which are in violation of this By-Law.
 - (iv) Should the Building Inspector determine that health and/or safety issues exist in an Accessory Dwelling Unit, permitted or not, the owner of the single family residence and associated Accessory Dwelling Unit, who does not bring his or her premises into compliance with this By-Law, shall be liable for a fine of not more than \$300.00 per day.
 - (v) The Town reserves the right to monitor changes in ownership or occupancy for compliance with this By-Law.
- (g) Severability
- If any provision of this By-Law is held invalid by a court of competent jurisdiction, the remainder of the By-Law shall not be affected thereby. The invalidity of any section or sections or parts of this By-Law shall not affect the validity of the remainder of the Town's Zoning By-Law.

Questions and Answers: Accessory Dwelling Units

Q. What are the existing regulations for Accessory Dwelling Units?

A There are none. Mendon has no enforceable regulations including any requirements as to size, number of bedrooms, or number of occupants that apply to Accessory Dwelling Units.

Q. How does this By-Law affect the homeowner who already has an Accessory Dwelling Unit?

A. It doesn't. An existing Accessory Dwelling Unit is exempt from this By-Law. Unless there is a health or safety issue, it's only when the property is sold that the Accessory Dwelling Unit has to comply with the State Building Code and most of the regulations in this By-Law.

Q. Will these Accessory Dwelling Units affect the residential character of our neighborhoods and lower property values?

A. No, for the following reasons: 1. The appearance of the building shall remain that of a single family residence. 2. This residence must be owner occupied. 3. No additional driveway to serve the apartment is allowed. 4. The two extra parking spaces must be to the side or rear of the dwelling. 5. There shall be only one bedroom and two occupants.

Q. Is it necessary to apply for a special permit to install an Accessory Dwelling Unit?

A. No. This By-Law allows Accessory Dwelling Units by right. If the homeowner is unable to comply with any of the standards and requirements, the Planning Board may issue a special permit after a public hearing.

Q. Does an Accessory Dwelling Unit change a single family house into a two family house?

A No. The By-Law clearly states that an Accessory Dwelling Unit is not considered to be a two family house.

Q. Can the homeowner rent an Accessory Dwelling Unit to anyone?

A. No, an Accessory Dwelling Unit can only be rented to immediate family members or care providers. Any deviation from this provision would require a special permit.